

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)	
)	
Text-Enabled Toll Free Numbers)	WC Docket No. 18-28
)	
Toll Free Service Access Codes)	CC Docket No. 95-155

AT&T provides these comments in response to the Notice of Proposed Rulemaking released by the Federal Communications Commission (“Commission”) pertaining to processes and procedures for text-enabling toll free numbers.¹

I. INTRODUCTION AND SUMMARY

In its Declaratory Ruling, the Commission took the important step of codifying the principle that messaging providers have known and followed—that a toll free number can be text-enabled only with the subscriber’s prior authorization.² The Commission should stop there. Industry subscriber verification processes are working well, as evidenced by the lack of widespread text-enabling of toll free numbers without subscriber authorization. Responsible Organization (“RespOrg”) involvement in the text-enabling process is simply unnecessary, as they are in no better position than messaging providers to identify unassigned toll free numbers or to obtain subscriber authorization to text-enable an assigned toll free number.

Unassigned toll free numbers are at minimal risk of being text-enabled because there is no incentive for a person to text a toll free number that has no inherent goodwill associated with a

¹ Text-Enabled Toll Free Numbers, Toll Free Service Access Codes, WC Docket No. 18-28, CC Docket No. 95-155, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 18-77 (released June 12, 2018) (“*Notice*”).

² The natural extension of this principle is that “unassigned” toll free numbers cannot be text-enabled because they are not assigned to a subscriber.

subscriber. Even if such a risk exists, RespOrgs are not needed to verify that a toll free number is unassigned. This task can be easily performed by messaging providers using public websites.³

The risk of text-enabling *assigned* toll free numbers without authorization is mitigated by messaging providers' subscriber verification processes, which have successfully prevented unauthorized text-enabling of toll free numbers except for a few contested incidences. RespOrg involvement would not improve these current industry driven processes. RespOrgs have no unique toll free subscriber data that necessitates their involvement or improves the subscriber authorization process. In fact, their involvement is more likely to inject uncertainty, confuse subscribers, cause delays, and lead to cumbersome multi-step interactions. In contrast, it is more simple, efficient, and timely, with no greater fraud risk, for a messaging provider to verify that a person seeking to text-enable a toll free number is or represents the subscriber and is authorized to take that action.

Likewise, messaging providers do not need the Service Management System ("SMS") database or any non-industry registry to continue protecting the integrity of toll free numbers. Messaging providers already use a database from NetNumber to record text-enabled toll free numbers. And, there is no failure in the NetNumber database that justifies the additional costs and complexity involved in recording information in an alternative registry. Messaging providers would be forced to spend substantial resources modifying their systems to accommodate a duplicative, multi-step process that delivers no additional protection for toll free numbers. Instead, the Commission should allow the messaging industry to record text-enabled toll free numbers in its database of choice. There is no market failure that justifies imposing new subscriber

³ See, e.g., <https://www.somos.com/find-a-toll-free-number>.

authorization regulation, third-party intermediaries like RespOrgs, or a separate registry on the messaging industry.⁴

II. DISCUSSION

A. Unauthorized text-enabling of toll free numbers is a fictional problem that does not warrant Commission action.

No one disputes the proposition that toll free numbers should be text-enabled only with prior subscriber authorization. The Commission appropriately clarified that issue in its Declaratory Ruling. It need not go any further, as AT&T agrees with Commissioner O'Reilly that "it is not clear, based on the present record that there is a problem that requires regulatory intervention."⁵ Specifically, there is no evidence of pervasive unauthorized text-enabling of unassigned or assigned toll free numbers or a lack of control over the subscriber authorization process. Aside from a few disputed incidents and unauthorized text-enabling manufactured by Somos' analysts, there are no material problems with messaging providers text-enabling toll free (or any other) numbers without appropriate authorization. Reliance on these few contested incidents does not warrant implementation of a new, multi-step, third-party subscriber authorization process.

This fictional problem is most evident with respect to the issue of *unassigned* toll free numbers. The *Notice* argues that "requiring RespOrgs to update the SMS Database when a toll

⁴ The *Notice* fails to explain the proposed interaction in practice between the subscriber, the RespOrg, and the messaging provider. For example, the *Notice* proposes that a toll free number subscriber inform the RespOrg of its authorization to text-enable a number, a RespOrg update the SMS Database with that information, and a messaging provider that text-enables a number update that information in the SMS Database. (*Notice* at ¶¶13-15, 23) It does not discuss how messaging providers will obtain a subscriber's authorization or how messaging providers, which are not all RespOrgs with access to the SMS Database, would update that database.

⁵ *Notice*, Statement of Commissioner Michael O'Reilly.

free number is text-enabled will help alleviate concerns that unassigned toll free numbers could be text-enabled because the RespOrg, in attempting to update the database, would realize if the toll free number to be text-enabled is reserved by a RespOrg or not.”⁶ However, unassigned toll-free numbers are not at risk of being text-enabled. There are no immediate incentives for anyone to text-enable an unassigned toll free number, as it is not associated with a business; so, it is not a number that customers would either recognize or purposefully seek to contact via a text message.

Equally important, messaging providers’ processes would likely catch attempts to text-enable an unassigned toll free number, as the status of a number is public information that is not uniquely available to RespOrgs. Many publicly accessible websites will, upon request, identify assigned and unassigned numbers. For example, as shown below, the toll free number finder on Somos’s website clearly identifies AT&T’s toll free number as unavailable. RespOrg involvement is not needed to use this publicly available information to protect unassigned toll free numbers.

Step 1
Find a Toll-Free Number
Search our database to find an available Toll-Free Number.

Select an Area Code

800	888	877
866	855	844
833		

This Toll-Free Number is unavailable and is currently reserved by AT&T. For more information, please contact them through their referral phone number at 800-544-6317.
X 800.331.0500

Enter any combination of seven (7) numbers and letters.

3310500 Submit

⁶ Notice at ¶11.

B. Registration in the SMS Database or a non-industry registry is not needed.

The *Notice* proposes registration in the SMS Database to “ensure that there is a single, authoritative registry for what toll free numbers have been text-enabled by their subscribers.”⁷ Yet, messaging providers already register text-enabled toll free numbers in a single database—the NetNumber routing database. This database has become the industry *de facto* database for text-enabled toll free numbers. And, the NetNumber database identifies for Zipwhip, the aggregator for messages to toll free numbers, where messages should be routed. This integral role for the industry’s messaging routing database supports its continued use.

Recording whether toll free numbers are text-enabled in another registry, even the SMS Database, would provide no added security for toll free numbers. Instead, it would duplicate some of the information already registered in the NetNumber database and layer on unnecessary, redundant registration processes. The substantial growth in the texting service market demonstrates that merchants have confidence in the current process, including the NetNumber database. And the messaging industry is best able to dictate the requirements of a database that meets and adapts to its needs, including protecting toll free number subscribers and the number system from fraud. Imposing an additional registry requirement onto a thriving and rapidly evolving texting market that is still in its infancy is both haphazard and potentially damaging to that market’s growth by adding unnecessary regulation and costs. Instead, the Commission should allow the market to continue using the systems that it has determined are most effective to register text-enabled toll free numbers.

⁷ *Notice* at ¶13.

C. Messaging providers do not require RespOrg involvement to obtain subscriber authorization to text-enable toll free numbers.

There is no need to involve RespOrgs in the subscriber authorization process. As explained above, there is no pervasive problem that would necessitate changes to the current industry-driven process. RespOrgs are no better positioned than messaging providers to improve the subscriber authorization process or to otherwise reduce the chance of fraud. They have no unique relationship to the toll free subscriber. And, RespOrgs have no access to information about the subscriber that is unavailable to messaging providers, as subscriber contact and other information is not recorded in the SMS Database.

On the other hand, messaging providers have the immediate subscriber relationship, as the subscriber seeks to text-enable their toll free number. The most simple and efficient process is to allow messaging providers to verify subscriber authorization to text-enable the number at that time.⁸ Injecting the RespOrg into the process at this point, seemingly as an intermediary, will be incredibly cumbersome and at best would delay, and at worst impede, businesses use of toll free number for text messaging. These regulatory impediments risk frustrating the Commission's goal of reducing number exhaust by discouraging customers from using an existing toll free number for both text messaging and voice use.

Moreover, these regulatory impediments are unnecessary to protect businesses or toll free numbers. Messaging providers already verify subscribers to minimize the chance that a toll free number is text-enabled without authorization. For example, as a reseller, AT&T uses the following Zipwhip process:

- A phone call with voice verification
- Online research indicating the business is tied to the same published phone number

⁸ Notice at 15 (“We seek to make recording a subscriber’s authorization to text-enable a toll free number as simple and efficient as possible”)

- Confirmation that payment information is tied to the requesting business.⁹

These processes have been effective in preventing unauthorized text-enabling of toll free numbers.

RespOrgs will have the same challenges—developing processes to validate subscriber authorization that are effective at preventing fraud. And, it is not a given that the hundreds of RespOrgs that would begin participating in the subscriber authorization process would be as effective as messaging providers at preventing this fraud. Their access to the SMS Database to identify the subscriber of *voice* service for a toll free number gives them no unique insight into whether a person is authorized by a business to text-enable its toll free number. That information can be obtained only by contacting the business subscriber directly, something RespOrgs are not uniquely qualified, and may be unwilling, to do. Moreover, RespOrgs also serve many other roles and could very well be a competitor of the subscriber’s chosen messaging provider, introducing the potential for conflicts of interest.

To be sure, no single process or entity can prevent all disputed authorizations, even for toll free numbers. However, the absence of significant complaints of improper text-enabling of numbers shows that the Zipwhip and other industry processes are working and that the industry is capable of adequately addressing issues that may emerge as the market for text-enabled numbers grows. Also, CTIA has developed *Messaging Principles and Best Practices*¹⁰ for the industry and continues to work with wireless carriers, Zipwhip, and other industry members to hone these guidelines so that potential problems are identified and addressed before they occur. This industry

⁹ *What the Proposed Toll-Free Texting FCC Ruling Means for Businesses & How to Oppose It*, available at <https://www.zipwhip.com/blog/why-the-fcc-ruling-about-toll-free-texting-is-bad-and-how-to-stop-it/> (Aug. 14, 2018).

¹⁰ Available at <https://api.ctia.org/docs/default-source/default-document-library/170119-ctia-messaging-principles-and-best-practices.pdf>.

innovation has worked and will continue to work to minimize fraudulent text-enabling of toll free numbers. The Commission should allow those industry processes to continue and impose regulation only if a market failure occurs.

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert Vitanza", with a long horizontal flourish extending to the right.

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